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NOT FOR PUBLICATION

FEB 21 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

EZELL EDWARDS,

Plaintiff - Appellant,

v.

USS-POSCO INDUSTRIES; et al.,

Defendants - Appellees.

Nos. 04-16481

04-16774

D.C. No. CV-02-01573-JL

MEMORANDUM^{*}

Appeal from the United States District Court
for the Northern District of California
James Larson, Magistrate Judge, Presiding^{**}

Submitted February 13, 2006^{***}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Ezell Edwards appeals pro se from the district court's summary judgment in his action under 42 U.S.C. § 1981 and California law, alleging racial

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The parties consented to the jurisdiction of the magistrate judge.

^{***} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

discrimination and retaliation when USS-POSCO Industries and supervisor Lynnette Giacobazzi terminated Edwards' employment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Wallis v. J.R. Simplot Co.*, 26 F.3d 885, 888 (9th Cir. 1994), and we affirm.

The district court properly granted summary judgment on Edwards' race discrimination claim because Edwards failed to raise a triable issue that similarly-situated, non-minority employees were treated differently, and therefore failed to show a *prima facie* case. *See id.* at 889. Further, even if he had done so and thereby shifted the burden, USS-POSCO articulated a legitimate nondiscriminatory reason for terminating Edwards, by submitting evidence that he made a series of threats against employees and supervisors. *See id.*

The district court properly granted summary judgment on Edwards' retaliation claim because Edwards failed to raise a triable issue regarding a causal link between his racial discrimination complaints and his termination. *See Brooks v. City of San Mateo*, 229 F.3d 917, 928 (9th Cir. 2000). Further, even if Edwards had shown a *prima facie* case, USS-POSCO satisfied its burden to show a legitimate nondiscriminatory reason for terminating Edwards. *See id.*

The district court properly dismissed Edwards' hostile work environment claim because Edwards did not allege any conduct by USS-POSCO that was

“sufficiently severe or pervasive to alter the conditions of [his] employment and create an abusive working environment.” *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57, 67 (1986) (internal quotation omitted).

Edwards’ remaining contentions are also without merit.

AFFIRMED